

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES MULLIN, GREG SMITH, and)	
KEVIN SCHMITT,)	
)	
Plaintiffs,)	
)	
v.)	02: 03cv1445
)	
INTERNATIONAL BROTHERHOOD OF)	
TEAMSTERS, LOCAL 249,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER OF COURT

Presently before the Court for disposition is the MOTION FOR NEW TRIAL filed by Plaintiffs (*Document No. 65*) and the RESPONSE in opposition filed by Defendant (*Document No. 70*). For the reasons that follow, the Motion will be denied.

Pursuant to Federal Rule of Civil Procedure 59, Plaintiffs request the Court to grant a new trial on the basis that the Court erred when it granted Defendant's Motion for Partial Summary Judgment on the issue of the applicable statute of limitations. The Court held that Plaintiffs' breach of contract claims were governed by a four (4) year statute of limitations and that because all the Complaints were filed on September 10, 2003, "any claims for compensation which became due and payable to Plaintiffs as Trustees prior to September 10, 1999 are barred by the operation of the Pennsylvania four-year statute of limitations" (*Memorandum Opinion entered on March 28, 2006, Document No. 45.*)

Plaintiffs argue that "[s]uch decision was contrary to the Discovery Rule . . . [and] ignores the fact that it was the Defendant's own actions which precluded Plaintiffs from discovering the proper pay that they were to receive under the contract." Mot. at ¶ 10. The

Court notes that these arguments are identical to the arguments previously made by Plaintiffs in their Brief in Reply to Brief of Defendant Local 249 On the Issue of Statute of Limitations (*see Document No. 43*) and said arguments were given due consideration by the Court. Plaintiffs raise no new arguments in this motion, the Court has previously considered these same arguments and the relevant case authority, and the Court is not persuaded that it should change its previous decision on this issue.

For these reasons, Plaintiffs' motion for new trial will be denied.

So **ORDERED** this 8th day of January, 2007.

BY THE COURT:

s/Terrence F. McVerry
United States District Court Judge

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